



SICK LEAVE SHARING PROGRAM

Answers to Frequently Asked Questions

Following are some of the most frequently asked questions and their answers.

Q1. Does the donor have to be an active employee?

A. Yes.

Q2. Can an employee count leave taken prior to the submission of the sick leave sharing application towards the requirement that the employee's condition require leave for ten (10) consecutive working days?

A. Yes, as long as the leave is continuous and related to the same qualifying condition. In other words, the employee can count the prior time off towards the ten (10) consecutive working day requirement as long as there has been no break in the employee's absence. If the employee returns to work at any time, then the employee cannot count any days prior to the return to work towards the required ten (10) consecutive working days.

For example, assume an employee is off consecutively Monday through Thursday due to a medical condition. Thereafter, on Friday, the employee submits a sick leave sharing application to receive donated sick leave. The absences from those four (4) consecutive days off (Monday through Thursday) can be counted towards the required ten (10) consecutive workdays of leave. However, as always, the previous consecutive days of leave must be due to a qualifying health condition certified by an appropriate health care provider.

NOTE: Donated sick leave cannot be applied retroactively to cover leave without pay prior to the submission of the employee's application as outlined in 101 KAR 2:105, Section 3(6)).

Q3. Can an employee on sick leave by personnel action or military leave participate in the program?

A. Once an employee has been placed on sick leave by personnel action or military leave without pay that employee is no longer eligible to participate in the sick leave sharing program. The employee is no longer entitled to accrue sick leave so he does not meet the requirements in the statute.

Q4. Will the recipient accrue leave of his own while on donated sick leave?

A. Yes, however, the recipient's leave must be used first before a donor's time can be used.

Q5. Will the recipient have to reapply when he accrues leave?

A. No, the original application will remain in effect.

Q6. When do the applications get sent to the Personnel Cabinet?

A. The Application for Sick Leave Sharing and the Sick Leave Donation Form(s) are to be sent to the Personnel Cabinet upon approval by the respective agencies, unless the agency is utilizing the Sick and Annual Leave Sharing functionality within KHRIS, in which case serves as the record of transfer.

Q7. Are the recipient and the donation forms on one piece of paper?

A. No, they are separate forms.

Q8. How do HR Administrators know where to send the appropriate forms?

A. A list of HR Administrators and the departments they handle is available from the Personnel Cabinet.

Q9. If the application is received after regular payroll, can the payment for donated leave be processed on the system off cycle?

A. Yes, provided the update is made in time for and submitted for the off-cycle. In the event the off-cycle is missed, it can be paid on the next regular payroll.

Q10. When and how is donated leave credited to the recipient?

A. All donated leave should be added to the recipient's sick leave balance at the time of donation. The amount credited may not exceed the amount requested. Crediting of leave on a pay period by pay period basis is not authorized in the statute.

Q11. Can/Should an employer apply sick leave sharing donations retroactively back to the date of the employee's initial application for sick leave sharing?

A. It depends upon the situation. 101 KAR 2:105 requires that sick leave sharing donations be used on consecutive days. If the employee files an application for sick leave sharing and later receives sick leave sharing donations, then the employer should apply the sick leave sharing donations prospectively from the date the donations are received. However, if the employee received other sick leave donations previously for the same qualifying condition, then the employer should apply any donations received in the future retroactively to the date immediately following the previous donation.

Q12. How are sick leave sharing donations applied when an employee is using unpaid family and medical leave?

A. If, pursuant to the application rules listed above in Q11, a sick leave sharing donation is applied to a date an employee had previously coded as unpaid family and medical leave, then the agency has two options:

Option 1: The agency can choose to code the sick leave sharing donation and the unpaid family and medical leave concurrently. In other words, the received sick leave sharing donation would not otherwise extend the employee's unpaid family and medical leave entitlement; OR

Option 2: The agency can choose to alter the employee's previous FMLA designation, essentially extending the employee's unpaid family and medical leave in the amount of the donation received by the employee. The employer will need to send out a new designation notice outlining the new date of FMLA designation.

Q13. Who is responsible for monitoring the sick leave balance of the recipient?

A. An employee who is receiving donated sick leave is responsible for keeping track of leave balances and for all paperwork associated with the sick leave sharing program. It is not the responsibility of the HR Administrators to notify donors or recipients of remaining leave balances. Current leave balances can be monitored through the Employee Self-Service (ESS) feature of the Kentucky Human Resource Information System (KHRIS) from most any computer with internet access.

Q14. When there are multiple donors, how do you know whose leave to use first?

A. The donor whose form is received first should have his leave used first.

Q15. Is an employee who can only work a fraction of the day due to a medical condition eligible to have leave donated?

A. No, the doctor must certify that the employee cannot perform his work duties for a minimum of 10 consecutive working days. This means all day, not a portion of the work day. However, once an employee has qualified for sick leave sharing for a specific condition that employee is eligible to use donated leave intermittently for follow-up care and recurrence of the same condition (see 19.)

Q16. Is an employee who is on workers' compensation eligible for participation in this program?

A. Employees drawing workers comp are eligible for sick leave sharing. This does not change the fact that the employee is not to receive full pay and workers' compensation income benefits. The donated sick leave would

be used to make up the difference between the workers' compensation income benefits payment and the employee's normal pay. Sick leave, from whatever origin, could be restored by the employee signing over the workers' compensation income benefits, per normal procedures.

Q17. Are all recipients of donated sick leave automatically eligible for state-paid health insurance?

A. No. Keep in mind that the leave regulations (101 KAR 2:102 and 101 KAR 3:015) apply to employees participating in the sick leave sharing program, the same as any other employee. It is the responsibility of the HR Administrators to ensure that only eligible employees are covered by the state share of health insurance. This may require stopping health insurance deductions in situations where the recipient does not meet the requirements.

Q18. Is the donation revocable?

A. No. Once the donor's application is accepted, the donation cannot be withdrawn, unless the donor becomes ineligible.

Q19. Does maternity leave qualify under this regulation?

A. Yes, with medical certification.

Q20. Can the recipient continue to use donated leave upon return to work?

A. Upon returning to work an employee may continue to use donated leave for follow-up treatments for the condition which made him/her eligible. For example: An employee who has cancer and requires follow-up treatment may continue to use donated leave to cover these absences. An employee who has received donated leave for pregnancy may continue to use this leave for any checkups and follow-up treatment relating to the pregnancy. However, this leave may not be used for the baby's checkups. Health issues with the baby necessitating extended absences would require a new application for sick leave donation and would require that the employee meet all qualifying criteria in relation to the baby's illness.

Q21. Can an agency outside of the Executive Branch apply for participation with the Sick Leave Sharing Program?

A. Agencies who are not currently included in this program but would like to participate, may submit a written request to the Commissioner of the Personnel Cabinet's Department of Human Resources Administration at 501 High Street, 3rd Floor, Frankfort, KY 40601. Approval to participate is at the sole discretion of the Personnel Cabinet.